

House Study Bill 580 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce including
3 the Iowa grain indemnity fund board, uniform securities Act,
4 examination of insurance companies, life insurance companies
5 and associations, external review of health care coverage
6 decisions, insurance other than life, mortgage guaranty
7 insurance, cemetery and funeral merchandise and funeral
8 services, and regulation of cemeteries and making penalties
9 applicable.
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 20.4, Code Supplement 2009, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 13. Full-time nonclerical employees of
4 the company regulation bureau of the insurance division of the
5 department of commerce.

6 Sec. 2. Section 22.7, Code Supplement 2009, is amended by
7 adding the following new subsection:

8 NEW SUBSECTION. 65. Information obtained by the
9 commissioner of insurance in the course of an examination of a
10 cemetery as provided in section 523I.213A, subsection 7.

11 Sec. 3. Section 203D.4, subsection 1, Code 2009, is amended
12 to read as follows:

13 1. The Iowa grain indemnity fund board is established
14 to advise the department on matters relating to the fund
15 and to perform the duties provided it in this chapter. The
16 board is composed of the secretary of agriculture or a
17 designee who shall serve as president; ~~the commissioner of~~
18 ~~insurance or a designee who shall serve as secretary;~~ the
19 state treasurer or a designee who shall serve as treasurer;
20 and four representatives of the grain industry appointed by
21 the governor, subject to confirmation by the senate, two of
22 whom shall be representatives of producers and who shall
23 be actively participating producers, and two of whom shall
24 be representatives of licensed grain dealers and licensed
25 warehouse operators and who shall be actively participating
26 licensed grain dealers and licensed warehouse operators, each
27 of whom shall be selected from a list of three nominations
28 made by the secretary of agriculture. The term of membership
29 of the grain industry representatives is three years, and the
30 representatives are eligible for reappointment. However,
31 only actively participating producers, and grain dealers and
32 warehouse operators are eligible for reappointment. The
33 grain industry representatives are entitled to a per diem as
34 specified in section 7E.6 for each day spent in the performance
35 of the duties of the board, plus actual expenses incurred in

1 the performance of those duties. Four members of the board
2 constitute a quorum, and the affirmative vote of four members
3 is necessary for any action taken by the board, except that
4 a lesser number may adjourn a meeting. A vacancy in the
5 membership of the board does not impair the rights of a quorum
6 to exercise all the rights and perform all the duties of the
7 board.

8 Sec. 4. Section 502.305, subsection 2, Code Supplement
9 2009, is amended to read as follows:

10 2. *Filing.* Except as provided in subsection 10 and section
11 502.304A, subsection 3, paragraph "g", a person who files a
12 registration statement or a notice filing shall pay a filing
13 fee of one-tenth of one percent of the proposed aggregate
14 sales price of the securities to be offered to persons in
15 this state pursuant to the registration statement or notice
16 filing. However, except as provided in subsection 10, section
17 502.302, subsection 1, paragraph "a", and section 502.304A,
18 subsection 3, paragraph "g", the annual filing fee shall not
19 be less than fifty dollars or more than one thousand dollars.
20 The administrator shall retain the filing fee even if the
21 notice filing is withdrawn or the registration is withdrawn,
22 denied, suspended, revoked, or abandoned. The fees collected
23 under this subsection shall be deposited as provided in section
24 505.7. The administrator may adopt rules requiring a filing
25 to be made electronically. The rules may provide for such
26 electronic filing either directly with the administrator or
27 with a designee of the administrator. The rules may require
28 that the filer pay any reasonable costs charged by the designee
29 of the administrator for processing the filings and that the
30 filer submit any fees paid through the designee.

31 Sec. 5. Section 507.4, subsection 2, Code 2009, is amended
32 to read as follows:

33 2. The commissioner may, when in the commissioner's
34 judgment it is advisable, appoint assistants to aid in
35 conducting examinations. ~~The commissioner shall employ~~

1 ~~rates of compensation consistent with current standards in~~
2 ~~the industry for certified public accountants, attorneys,~~
3 ~~and skilled insurance examiners. The commissioner may use~~
4 ~~compensation rates suggested by the national association of~~
5 ~~insurance commissioners. Insurance examiners employed under~~
6 this section shall be exempt from the merit system provisions
7 of chapter 8A, subchapter IV, under section 8A.412, subsection
8 17. Pay plans which are substantially equivalent to those
9 for examiners under section 524.208 shall be established for
10 exempt company regulation bureau employees who examine the
11 accounts and affairs of companies subject to the supervision
12 and regulation of the commissioner. Compensation shall be paid
13 from appropriations for such purposes upon certification of the
14 commissioner, which shall be reimbursed as provided in sections
15 507.8 and 507.9.

16 Sec. 6. NEW SECTION. 508.33A **Limited purpose subsidiary**
17 **life insurance companies.**

18 1. As used in this section unless the context otherwise
19 requires:

20 a. "*Affiliated company*" means a domestic life insurance
21 company that is a directly or indirectly wholly owned
22 subsidiary of the same parent.

23 b. "*Parent*" means a person as defined in section 521A.1
24 who directly or indirectly through one or more intermediaries
25 wholly owns the organizing life insurance company.

26 c. "*Risks*" means risks associated with the life insurance
27 policies and contracts written by the ceding domestic life
28 insurance company or assumed by the ceding domestic life
29 insurance company from an affiliated company, which were
30 written by the affiliated company and for which the ceding
31 domestic life insurance company holds direct statutory reserves
32 for those policies and contracts as required by section 508.36.

33 2. a. A domestic life insurance company organized pursuant
34 to the provisions of this chapter may organize a domestic
35 limited purpose subsidiary life insurance company pursuant

1 to the provisions of this chapter that is wholly owned by
2 the organizing life insurance company. The limited purpose
3 subsidiary life insurance company may reinsure risks of the
4 organizing life insurance company, reinsure risks of affiliated
5 companies, and access alternative forms of financing.

6 *b.* A limited purpose subsidiary life insurance company
7 shall submit a plan of operation to the commissioner, and the
8 commissioner shall approve the plan of operation with such
9 amendments as the commissioner requires, before the limited
10 purpose subsidiary life insurance company assumes any risks
11 under a reinsurance contract. The plan of operation and any
12 records, books, documents, reports, or other information that
13 the commissioner requires a limited purpose subsidiary life
14 insurance company to produce or disclose pursuant to rules
15 adopted under subsection 6 or pursuant to an order of the
16 commissioner shall be treated the same as information obtained
17 by or disclosed to the commissioner pursuant to section 521A.6
18 and the commissioner shall have the powers enumerated in
19 section 521A.6 as to that insurer.

20 3. The organizing life insurance company may invest funds
21 from its surplus in a limited purpose subsidiary life insurance
22 company organized pursuant to this section.

23 4. The organizing life insurance company's officers and
24 directors may serve as officers and directors of a limited
25 purpose subsidiary life insurance company organized pursuant to
26 this section.

27 5. A limited purpose subsidiary life insurance company
28 organized pursuant to this section shall be deemed to be
29 licensed to transact the business of reinsurance for the
30 purposes of section 521B.2, subsection 1, but may only
31 reinsure risks of its organizing life insurance company and
32 of affiliated companies. A limited purpose subsidiary life
33 insurance company organized pursuant to this section may, upon
34 approval of the commissioner, purchase reinsurance to cede the
35 reinsurance risks assumed by the limited purpose subsidiary

1 life insurance company.

2 6. The commissioner shall adopt rules pursuant to chapter
3 17A concerning limited purpose subsidiary life insurance
4 companies, including but not limited to the organization, plans
5 of operation, capital requirements including risk-based capital
6 requirements, reserves, authorized investments, reinsurance
7 assumed, material transaction restrictions and requirements,
8 dividends and distributions, operations, and the conditions,
9 forms, and approval of financing of limited purpose subsidiary
10 life insurance companies organized pursuant to this section.

11 7. Admitted assets of a limited purpose subsidiary
12 life insurance company shall include assets approved by
13 the commissioner which shall be deemed to be, and reported
14 as, admitted assets of the limited purpose subsidiary life
15 insurance company.

16 8. The provisions of sections 508.5, 508.6, and 511.8,
17 section 521.2, subsection 4, sections 521A.4 and 521A.5, and
18 chapter 521E shall not be applicable to a limited purpose
19 subsidiary life insurance company organized pursuant to this
20 section.

21 9. A limited purpose subsidiary life insurance company
22 shall not be organized pursuant to this section prior to the
23 effective date of rules adopted by the commissioner regulating
24 the organization and operation of limited purpose subsidiary
25 life insurance companies as provided in subsection 6.

26 Sec. 7. Section 511.8, subsection 5, Code Supplement 2009,
27 is amended to read as follows:

28 5. *Corporate obligations.* Subject to the restrictions
29 contained in subsection 8 hereof, bonds or other evidences of
30 indebtedness issued, assumed, or guaranteed by a corporation
31 incorporated under the laws of the United States of America, or
32 of any state, district, or insular or territorial possession
33 thereof; or of the Dominion of Canada, or any province thereof;
34 and which meet the following qualifications:

35 a. (1) If fixed interest-bearing obligations, the net

1 earnings of the issuing, assuming, or guaranteeing corporation
2 available for its fixed charges for a period of five fiscal
3 years next preceding the date of acquisition of the obligations
4 by such insurance company shall have averaged per year not
5 less than one and one-half times such average annual fixed
6 charges of the issuing, assuming, or guaranteeing corporation
7 applicable to such period, and, during at least one of the last
8 two years of such period, its net earnings shall have been
9 not less than one and one-half times its fixed charges for
10 such year; or if, at the date of acquisition, the obligations
11 are adequately secured and have investment qualities and
12 characteristics wherein the speculative elements are not
13 predominant.

14 (2) However, with respect to fixed interest-bearing
15 obligations which are issued, assumed, or guaranteed by a
16 financial company, the net earnings by the financial company
17 available for its fixed charges for the period of five fiscal
18 years preceding the date of acquisition of the obligations by
19 the insurance company shall have averaged per year not less
20 than one and one-fourth times such average annual fixed charges
21 of the issuing, assuming, or guaranteeing financial company
22 applicable to such period, and, during at least one of the last
23 two years of the period, its net earnings shall have been not
24 less than one and one-fourth times its fixed charges for such
25 year; or if, at the date of acquisition, the obligations are
26 adequately secured and speculative elements are not predominant
27 in their investment qualities and characteristics. As used
28 in this ~~paragraph~~ subparagraph (2), "*financial company*" means
29 a corporation which on the average over its last five fiscal
30 years preceding the date of acquisition of its obligations
31 by the insurer, has had at least fifty percent of its net
32 income, including income derived from subsidiaries, derived
33 from the business of wholesale, retail, installment, mortgage,
34 commercial, industrial or consumer financing, or from banking
35 or factoring, or from similar or related lines of business.

1 **b.** If adjustment, income, or other contingent interest
2 obligations, the net earnings of the issuing, assuming, or
3 guaranteeing corporation available for its fixed charges
4 for a period of five fiscal years next preceding the date
5 of acquisition of the obligations by such insurance company
6 shall have averaged per year not less than one and one-half
7 times such average annual fixed charges of the issuing,
8 assuming, or guaranteeing corporation and its average annual
9 maximum contingent interest applicable to such period and,
10 during at least one of the last two years of such period, its
11 net earnings shall have been not less than one and one-half
12 times the sum of its fixed charges and maximum contingent
13 interest for such year, or if, at the date of acquisition,
14 the obligations are adequately secure and have investment
15 qualities and characteristics and speculative elements are not
16 predominant.

17 **c.** Are securities that at the date of acquisition are
18 rated three by the securities valuation office of the
19 national association of insurance commissioners or have the
20 equivalent rating by a rating organization that is approved
21 by the national association of insurance commissioners as an
22 acceptable rating organization and are listed or admitted to
23 trading on a securities exchange in the United States or are
24 publicly held and actively traded in the over-the-counter
25 market and market quotations are readily available. If
26 a security acquired under this paragraph is subsequently
27 downgraded from a three rating by the securities valuation
28 office of the national association of insurance commissioners
29 or the equivalent by a national association of insurance
30 commissioners' acceptable rating organization, the security no
31 longer qualifies as a legal reserve investment.

32 **d.** The term "*net earnings available for fixed charges*" as
33 used ~~herein shall mean~~ in this section means the net income
34 after deducting all operating and maintenance expenses, taxes
35 other than any income taxes, depreciation, and depletion, but

1 nonrecurring items of income or expense may be excluded.

2 e. The term "*fixed charges*" as used ~~herein shall include in~~
3 this section includes interest on unfunded debt and funded debt
4 on a parity with or having a priority to the obligation under
5 consideration.

6 f. The term "*corporation*" as used in this chapter includes
7 a joint stock association, a limited liability company, a
8 partnership, or a trust.

9 g. The securities, real estate, and mortgages described in
10 this section include participations, which means instruments
11 evidencing partial or undivided collective interests in such
12 securities, real estate, and mortgages.

13 Sec. 8. Section 511.8, subsection 8, Code Supplement 2009,
14 is amended by adding the following new paragraph:

15 NEW PARAGRAPH. d. In addition to the restrictions contained
16 in paragraphs "*a*" and "*b*", the investments of any company
17 or association in securities included under subsection 5,
18 paragraph "*c*", are not eligible in excess of two percent of the
19 legal reserve, but not more than one-eighth of one percent of
20 the legal reserve shall be invested in the securities of any
21 one corporation.

22 Sec. 9. Section 511.8, subsection 16, Code Supplement 2009,
23 is amended to read as follows:

24 16. *Deposit of securities.*

25 a. Securities in an amount not less than the legal reserve
26 as defined in this section shall be deposited and the deposit
27 maintained with the commissioner of insurance or at such places
28 as the commissioner may designate as will properly safeguard
29 them. There may be included in the deposit an amount of cash
30 on hand not in excess of five percent of the deposit required,
31 that deposit to be evidenced by a certified check, certificate
32 of deposit, or other evidence satisfactory to the commissioner
33 of insurance. Deposits of securities may be made in excess
34 of the amounts required by this section. A stock company
35 organized under the laws of this state shall not be required to

1 make a deposit until the legal reserve, as ascertained by the
2 commissioner, exceeds the amount deposited by it as capital.
3 Real estate may be made a part of the deposit by furnishing
4 evidence of ownership satisfactory to the commissioner and
5 by conveying the real estate to the commissioner or the
6 commissioner's successors in office by warranty deed. The
7 commissioner and the successors in office shall hold the real
8 estate in trust for the benefit of the policyholders of the
9 company or members of the association. Real estate mortgage
10 loans and policy loans may be made a part of the deposit by
11 filing a verified statement of the loans with the commissioner,
12 which statement is subject to check at the discretion of the
13 commissioner.

14 b. The securities comprising the deposit of a company
15 or association against which proceedings are pending under
16 section 508.18 shall vest in the state for the benefit of all
17 policyholders of the company or association.

18 c. Securities or title to real estate on deposit may be
19 withdrawn at any time and other eligible securities may be
20 substituted, provided the amount maintained on deposit is
21 equal to the sum of the legal reserve and twenty-five thousand
22 dollars. In the case of real estate the commissioner shall
23 execute and deliver to the company or association a quitclaim
24 deed to the real estate. Any company or association shall,
25 if requested by the commissioner, at the time of withdrawing
26 any securities on deposit, designate for what purpose the
27 same securities are being withdrawn.

28 d. Companies or associations having securities or title
29 to real estate on deposit with the commissioner of insurance
30 shall have the right to collect all dividends, interest, rent,
31 or other income from the deposit unless proceedings against
32 the company or association are pending under section 508.18,
33 in which event the commissioner shall collect such interest,
34 dividends, rent, or other income and add the same to the
35 deposit.

1 e. Any company or association receiving payments or partial
2 payments of principal on any securities deposited with the
3 commissioner of insurance shall notify the commissioner of such
4 fact at such times and in such manner as the commissioner may
5 prescribe, giving the amount and date of payment.

6 f. The commissioner of insurance may receive on deposit
7 securities or title to real estate of alien companies
8 authorized to do business in the state of Iowa, for the purpose
9 of securing its policyholders in the state of Iowa and the
10 United States. The provisions hereof of this subsection not
11 inconsistent with the deposit agreement shall apply to the
12 deposits of such alien companies.

13 g. Common stocks or shares issued by any federal home
14 loan bank eligible for inclusion in the legal reserve under
15 subsection 18, paragraph "c", may be made a part of a deposit
16 by filing a verified statement of the common stocks or shares
17 issued by a federal home loan bank that are held in the legal
18 reserve. Attached to the statement shall be the annual capital
19 stock statement of the respective federal home loan bank
20 showing membership stock balance and activity-based stock
21 balance.

22 Sec. 10. Section 511.8, subsection 23, paragraphs c and e,
23 Code Supplement 2009, are amended to read as follows:

24 c. If the loan is collateralized by cash or cash
25 equivalents, the cash or cash equivalent collateral may be
26 reinvested by the life insurance company or association in
27 either class one money market funds as defined in subsection
28 24, individual securities which are eligible for inclusion
29 in the legal reserve of the life insurance company or
30 association, or in repurchase agreements fully collateralized
31 by such securities if the life insurance company or association
32 takes delivery of the collateral either directly or through an
33 authorized custodian or pooled fund comprised of individual
34 securities which are eligible for inclusion in the legal
35 reserve of the life insurance company or association. If such

1 reinvestment is made in individual securities or in repurchase
2 agreements, the individual securities or the securities which
3 collateralize the repurchase agreements shall mature in less
4 than two hundred seventy days. If such reinvestment is made
5 in a pooled fund, the average maturity of the securities
6 comprising such pooled fund must be ~~less than two hundred~~
7 seventy one hundred eighty days or less and the individual
8 maturities of the securities comprising such pooled fund
9 must be three hundred ninety-seven days or less. Individual
10 securities and securities comprising the pooled fund shall be
11 investment grade. As used in this paragraph, "maturity" means
12 the earlier of the fixed date on which the holder of the
13 security is unconditionally entitled to receive principal
14 and interest in full or the date on which the holder of the
15 security is unconditionally entitled upon demand to receive
16 principal and interest in full.

17 e. Securities loaned pursuant to this subsection
18 are not eligible for inclusion in the legal reserve of
19 the life insurance company or association in excess of
20 ~~twenty~~ ten percent of the legal reserve.

21 Sec. 11. Section 511.8, subsection 23, Code Supplement
22 2009, is amended by adding the following new paragraph:

23 NEW PARAGRAPH. f. A life insurance company or association
24 may continue to hold in the legal reserve of the life insurance
25 company or association securities which are the subject of a
26 reverse repurchase agreement. If such securities are held in
27 the legal reserve of a life insurance company or association,
28 the securities shall be subject to the limitations of paragraph
29 "e" as if they were securities loaned pursuant to this
30 subsection.

31 Sec. 12. Section 514J.7, subsection 2, Code 2009, is amended
32 to read as follows:

33 2. The independent review entity, within three business
34 days of receipt of the notice, shall select a person to perform
35 the external review and shall provide notice to the enrollee

1 and the carrier containing a brief description of the person
2 including the reasons the person selected is an expert in
3 the treatment of the medical condition under review. The
4 independent review entity ~~does not need to~~ shall, upon request
5 from the enrollee or the enrollee's treating health care
6 provider, disclose the name of the person. A copy of the
7 notice shall be sent by facsimile to the commissioner. If the
8 independent review entity does not have a person who is an
9 expert in the treatment of the medical condition under review
10 and certified by the commissioner to conduct an independent
11 review, the independent review entity may either decline the
12 review request or may request from the commissioner additional
13 time to have such an expert certified. The independent review
14 entity shall notify the commissioner by facsimile of its choice
15 between these options within three business days of receipt of
16 the notice from the carrier or organized delivery system. The
17 commissioner shall provide a notice to the enrollee and carrier
18 or organized delivery system of the independent review entity's
19 decision and of the commissioner's decision as to how to
20 proceed with the external review process within three business
21 days of receipt of the independent review entity's decision.

22 Sec. 13. Section 515.125, subsection 1, Code 2009, is
23 amended to read as follows:

24 1. Unless otherwise provided in section 515.127, ~~or~~
25 515.128, 515.129A, 515.129B, or 515.129C, a policy or contract
26 of insurance provided for in this chapter shall not be
27 forfeited, suspended, or canceled except by notice to the
28 insured as provided in this chapter. A notice of cancellation
29 is not effective unless mailed or delivered by the insurer to
30 the named insured at least thirty days before the effective
31 date of cancellation, or, where cancellation is for nonpayment
32 of a premium, assessment, or installment provided for in the
33 policy, or in a note or contract for the payment thereof, at
34 least ten days prior to the date of cancellation. The notice
35 may be made in person, or by sending by mail a letter addressed

1 to the insured at the insured's address as given in or upon
2 the policy, anything in the policy, application, or a separate
3 agreement to the contrary notwithstanding.

4 Sec. 14. NEW SECTION. 515.129A **Cancellation of personal**
5 **lines policies or contracts.**

6 1. A personal lines policy or contract of insurance which
7 has been in effect for more than sixty days shall not be
8 canceled except by notice to the insured as provided in this
9 chapter.

10 2. Notice of cancellation of a personal lines policy or
11 contract of insurance is not effective unless the cancellation
12 is based on one or more of the following reasons:

13 a. Nonpayment of premium.

14 b. Failure to pay dues or fees where payment of dues or fees
15 is a prerequisite to obtaining or continuing insurance coverage
16 in force.

17 c. Discovery of fraud or material misrepresentation made
18 by or with the knowledge of the named insured in obtaining,
19 continuing, or presenting a claim under the policy.

20 d. Actions by the insured which substantially change or
21 increase the risk insured.

22 e. The insured has acted in a manner which the insured knew
23 or should have known was in violation or breach of a term or
24 condition of the insurance policy or contract.

25 f. The occurrence of a change in the risk that substantially
26 increases a hazard insured against after insurance coverage has
27 been issued or renewed.

28 Sec. 15. NEW SECTION. 515.129B **Nonrenewal of personal lines**
29 **policies or contracts.**

30 1. An insurer shall not refuse to renew a personal lines
31 policy or contract of insurance unless at least thirty days
32 before the end of the policy or contract period the insurer
33 delivers or mails to the first named insured, at the last known
34 address of the first named insured, written notice of the
35 insurer's intention not to renew the policy or contract upon

1 expiration of the current policy or contract period as provided
2 in section 515.129C.

3 2. The notice of intention not to renew shall include or be
4 accompanied by a written explanation of the insurer's specific
5 reason or reasons for the nonrenewal.

6 Sec. 16. NEW SECTION. 515.129C Notice of renewal or
7 nonrenewal of personal lines policies of contracts.

8 1. At least thirty days before the end of the policy or
9 contract term, an insurer shall mail or deliver to the last
10 known address of the first named insured a renewal policy or
11 contract, an offer to renew the current policy or contract, or
12 a notice of nonrenewal of the policy or contract. Information
13 concerning the renewal policy or contract, the offer to
14 renew the policy or contract, or the notice of nonrenewal of
15 the policy or contract shall also be mailed, delivered, or
16 transmitted electronically to the last known address of the
17 producer of record of the policy or contract. Proof of such
18 mailing or delivery to the first named insured's last known
19 address shall be maintained by the insurer.

20 a. An offer to renew the policy or contract shall state
21 the renewal premium and the date that the premium is due. The
22 renewal premium shall be based on the known exposure as of the
23 date of the offer to renew.

24 b. If the renewal premium is not received by the due date
25 or the policy or contract expiration date, whichever is later,
26 the policy or contract lapses.

27 2. If an insurer fails to comply with the notice
28 requirements of this section, the policy or contract shall be
29 extended on the same terms and conditions for another policy or
30 contract term or until the effective date of similar insurance
31 procured by the insured, whichever is earlier. The insurer may
32 make continued coverage contingent upon the payment of premium.

33 3. Renewal of a policy or contract does not constitute a
34 waiver or estoppel with respect to grounds for cancellation
35 that existed before the effective date of the renewal.

1 Sec. 17. Section 515C.5, Code 2009, is amended to read as
2 follows:

3 **515C.5 Limit of outstanding liability.**

4 1. A Unless a request to suspend the requirements of
5 this section is granted by the commissioner as set forth in
6 subsection 2, a mortgage guaranty insurer shall not at any time
7 have outstanding a total liability, net of reinsurance, in
8 excess of twenty-five times its capital, unassigned funds and
9 contingency reserve. ~~It~~ A mortgage guaranty insurer shall not
10 insure loans secured by properties in a single housing tract or
11 in a contiguous tract (~~not~~ which is not separated by more than
12 one-half mile) mile in excess of ten percent of its capital,
13 unassigned funds, and contingency reserve. Coverage may be
14 provided only if the properties in such tract are residential
15 buildings, buildings designed for occupancy by not more than
16 four families, or owner-occupied mobile homes.

17 2. Upon request of a mortgage guaranty insurer, the
18 commissioner may suspend the requirements contained in
19 subsection 1 for such time and under such conditions as the
20 commissioner may order. The commissioner may adopt rules as
21 necessary relating to the consideration of such requests for
22 suspension of those requirements.

23 Sec. 18. Section 523A.102, Code 2009, is amended by adding
24 the following new subsections:

25 NEW SUBSECTION. 16A. "Irrevocable purchase agreement" means
26 a purchase agreement that does not allow a distribution of
27 trust assets, including insurance or annuity proceeds, to the
28 purchaser or beneficiary prior to the death of the beneficiary,
29 other than the ability of the purchaser to direct the transfer
30 of the trust assets to another licensed seller.

31 NEW SUBSECTION. 25A. "Revocable purchase agreement" means
32 a purchase agreement that allows the purchaser to cancel the
33 purchase agreement and direct a distribution or refund of the
34 trust assets.

1 Sec. 19. Section 523A.204, subsection 4, Code Supplement

2 2009, is amended to read as follows:

3 4. The commissioner shall levy an administrative penalty
4 in the amount of up to five hundred dollars against a preneed
5 seller that fails to file the annual report when due, payable
6 to the state for deposit as provided in section 505.7.

7 However, the commissioner may waive the administrative penalty
8 upon a showing of good cause or financial hardship.

9 Sec. 20. Section 523A.207, Code 2009, is amended to read as
10 follows:

11 **523A.207 Audits by certified public accountants.**

12 1. A purchase agreement shall not be sold or transferred,
13 as part of the sale of a business or the assets of a business,
14 until an audit has been performed by a certified public
15 accountant and filed with the commissioner that expresses the
16 auditor's opinion of the adequacy of funding related to the
17 purchase agreements to be sold or transferred.

18 2. If the person selling or transferring a purchase
19 agreement fails to comply with the requirements of subsection
20 1, the obligation to file an audit report shall be shared by
21 any preneed seller who assumes the obligations of the purchase
22 agreement. In addition, the person selling or transferring the
23 purchase agreement shall remain jointly and severally liable
24 to perform the terms of the purchase agreement until the audit
25 report is received by the commissioner.

26 Sec. 21. Section 523A.401, subsection 5, paragraph a, Code
27 2009, is amended to read as follows:

28 ~~a. Except as necessary and appropriate to satisfy the~~
29 ~~requirements regarding burial trust funds under Title XIX of~~
30 ~~the federal Social Security Act, the The policy shall not~~
31 ~~be owned by the seller, the policy shall not be irrevocably~~
32 ~~assigned to the seller, and the assignment of proceeds from the~~
33 ~~insurance policy to the seller shall be limited to the seller's~~
34 ~~interests as they appear in the purchase agreement, and~~
35 ~~conditioned on the seller's delivery of cemetery merchandise,~~
1 ~~funeral merchandise, and funeral services pursuant to a~~

2 purchase agreement.

3 Sec. 22. Section 523A.401, Code 2009, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 9. The commissioner, by rule, may require
6 written trust agreements and establish terms and conditions for
7 trusts holding insurance policies. The seller or any officer,
8 director, agent, employee, or affiliate of the seller shall not
9 serve as a trustee. The commissioner may require amendments to
10 a trust agreement that is not in accord with the provisions of
11 this chapter or rules adopted under this chapter.

12 Sec. 23. Section 523A.402, subsection 5, paragraph a, Code
13 2009, is amended to read as follows:

14 ~~a. Except as necessary and appropriate to satisfy the~~
15 ~~requirements regarding burial trust funds under Title XIX of~~
16 ~~the federal Social Security Act, the The annuity shall not be~~
17 owned by the seller or irrevocably assigned to the seller and
18 any designation of the seller as a beneficiary shall not be
19 made irrevocable.

20 Sec. 24. Section 523A.402, Code 2009, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 9. The commissioner, by rule, may require
23 written trust agreements and establish terms and conditions for
24 trusts holding annuities. The seller or any officer, director,
25 agent, employee, or affiliate of the seller shall not serve as
26 a trustee. The commissioner may require amendments to a trust
27 agreement that is not in accord with the provisions of this
28 chapter or rules adopted under this chapter.

29 Sec. 25. Section 523A.502A, subsection 3, Code Supplement
30 2009, is amended to read as follows:

31 3. The commissioner shall levy an administrative penalty
32 in the amount of up to five hundred dollars against a sales
33 agent who fails to file an annual report when due, payable to
34 the state for deposit as provided in section 505.7. However,
35 the commissioner may waive the administrative penalty upon a
1 showing of good cause or financial hardship.

2 Sec. 26. Section 523A.601, subsection 1, paragraph b, Code
3 2009, is amended to read as follows:

4 *b.* Specify the cemetery merchandise, funeral merchandise,
5 funeral services, or a combination thereof to be provided, and
6 the cost of each merchandise item or service, if selected.

7 Sec. 27. Section 523A.601, subsection 1, paragraphs f and g,
8 Code 2009, are amended to read as follows:

9 *f.* ~~State~~ Unless the purchaser or beneficiary is receiving or
10 has applied to receive Medicaid or supplemental security income
11 benefits, state that the purchase of the cemetery merchandise,
12 funeral merchandise, and funeral services is revocable ~~and~~
13 ~~specify the damages for cancellation, if any.~~ The purchase
14 agreement may provide that if the purchaser or beneficiary is
15 receiving or has applied to receive Medicaid or supplemental
16 security income benefits, the purchase agreement may be an
17 irrevocable purchase agreement, subject to the requirements of
18 section 523A.602, subsection 4.

19 *g.* State clearly who has the authority to cancel, amend, or
20 revoke the purchase agreement to purchase cemetery merchandise,
21 funeral merchandise, and funeral services and specify the
22 penalties for cancellation, if any.

23 Sec. 28. Section 523A.602, subsection 3, Code 2009, is
24 amended to read as follows:

25 3. This section does not prohibit a purchaser who is
26 ~~or may become eligible for~~ receiving or has applied to
27 receive benefits under ~~Title~~ Tit. XIX of the federal Social
28 Security Act from making a ~~guaranteed price~~ purchase agreement
29 irrevocable, subject to the requirements of subsection 4, to
30 the extent that federal law or regulations require that such
31 an agreement be irrevocable for purposes of a purchaser's
32 eligibility for benefits under ~~Title~~ Tit. XIX of the federal
33 Social Security Act, as permitted under federal law. The
34 seller of credit sale agreements shall comply with the
35 requirements of chapter 537, the Iowa consumer credit code,
1 and is subject to the remedies and penalties provided in that

2 chapter for noncompliance.

3 Sec. 29. Section 523A.602, Code 2009, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 4. An irrevocable purchase agreement is
6 subject to the following restrictions as a matter of law:

7 a. The purchase agreement must include a selection of the
8 cemetery merchandise, funeral merchandise, funeral services,
9 or a combination thereof to be provided and the cost of each
10 merchandise item or service.

11 b. A life insurance policy or annuity funding the purchase
12 agreement, if any, must be held in trust by the preneed
13 seller and titled appropriately pursuant to the purchaser's
14 irrevocable assignment of ownership to the trust. The preneed
15 seller may be named a nominal owner of the life insurance
16 policy or annuity only for such time as it takes to immediately
17 transfer the policy or annuity into trust.

18 c. Any transfer of trust assets must be to another licensed
19 preneed seller in connection with an assumption of the existing
20 purchase agreement or a new purchase agreement for the same
21 selection of cemetery merchandise, funeral merchandise,
22 funeral services, or a combination thereof to be provided
23 and specifying the cost of each merchandise item or service
24 selected.

25 Sec. 30. Section 523A.807, subsection 3, unnumbered
26 paragraph 1, Code Supplement 2009, is amended to read as
27 follows:

28 If the commissioner finds that a person has violated section
29 523A.201, 523A.202, 523A.203, 523A.207, 523A.401, 523A.402,
30 523A.403, 523A.404, 523A.405, 523A.501, ~~or~~ 523A.502, or
31 523A.504 or any rule adopted pursuant thereto, the commissioner
32 may order any or all of the following:

33 Sec. 31. Section 523I.213A, Code 2009, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 7. Notwithstanding chapter 22, the
1 commissioner shall not make information obtained in the course

2 of an examination public, except when a duty under this chapter
3 requires the commissioner to take action against a cemetery
4 or to cooperate with another law enforcement agency, or when
5 the commissioner is called as a witness in a civil or criminal
6 proceeding.

7

EXPLANATION

8 This bill relates to various matters under the purview of the
9 insurance division of the department of commerce.

10 IOWA GRAIN INDEMNITY BOARD. Code section 203D.4(1) is
11 amended to remove the commissioner of insurance or a designee
12 as a member of the Iowa grain indemnity fund board.

13 UNIFORM SECURITIES ACT. Code section 502.305(2) is amended
14 to allow the administrator of the Iowa uniform securities
15 Act to adopt rules that require certain filings to be made
16 electronically either with the administrator or a designee of
17 the administrator and that require filers to submit filings and
18 pay processing fees to such a designee.

19 EXAMINATION OF INSURANCE COMPANIES. Code section 507.4(2)
20 is amended to allow the commissioner of insurance to employ
21 insurance examiners who are exempt from the state merit system
22 and to pay those examiners pursuant to a pay plan that is
23 substantially equivalent to that used for bank examiners. A
24 coordinating amendment is made to Code section 20.4 exempting
25 such insurance examiners from the state merit system.

26 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. New Code
27 section 508.33A authorizes Iowa life insurance companies to
28 organize wholly owned limited purpose subsidiary life insurance
29 companies to reinsure the risks of the organizing company and
30 its affiliated companies. Before assuming any risks under a
31 reinsurance contract, a new limited purpose subsidiary life
32 insurance company must submit and receive approval of its
33 plan of operation from the commissioner. The commissioner
34 is required to adopt rules to regulate such limited purpose
35 insurers and no limited purpose insurer can be organized prior
1 to the effective date of such rules.

2 Code section 511.8(5) is amended to allow life insurance
3 companies to invest in certain securities that are rated three
4 for legal reserve purposes. New Code section 511.8(8)(d) is
5 a coordinating amendment that provides that such securities
6 are not eligible investments in excess of 2 percent of the
7 legal reserve and not more than one-eighth of 1 percent of the
8 legal reserve can be invested in the securities of any one
9 corporation.

10 Code section 511.8(16) is amended to provide that common
11 stocks or shares issued by any federal home loan bank that
12 are eligible common stocks or shares for inclusion in a
13 life insurance company's legal reserve may be deposited as
14 securities with the commissioner.

15 Code section 511.8(23)(c) and (e) are amended to provide
16 that if a security loan made by a life insurance company to a
17 specified entity is collateralized by cash, the insurer may
18 reinvest the cash in class one money market funds, among other
19 things. If such reinvestments are made in a pooled fund,
20 the average maturity of the securities in the pooled fund
21 must be 180 days or less and the individual maturities of the
22 securities must be 397 days or less. "Maturity" is defined
23 to mean the earlier of the fixed date on which the holder of
24 the security is unconditionally entitled to receive principal
25 and interest in full or the date on which the holder of the
26 security is unconditionally entitled upon demand to receive
27 principal and interest in full. Such securities loaned in
28 this manner cannot be included in the legal reserve of a life
29 insurance company in excess of 10, formerly 20, percent of the
30 legal reserve.

31 New Code section 511.8(23)(f) is added to allow a life
32 insurance company or association to hold securities which are
33 the subject of a reverse repurchase agreement in its legal
34 reserve, subject to the limitation that such securities are
35 treated as securities loaned and cannot be included in legal
1 reserve in excess of 10 percent of the reserve.

2 EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS. Code
3 section 514J.7(2) is amended to provide that an enrollee or a
4 treating health care provider who seeks external review of a
5 health care coverage decision is entitled to be told the name
6 of the expert person selected to perform the external review.

7 INSURANCE OTHER THAN LIFE. Code section 515.125(1) is
8 amended to except new provisions in the bill pertaining
9 to personal lines insurance policies or contracts from the
10 forfeiture and notice requirements of this section.

11 New Code section 515.129A provides that personal lines
12 policies or contracts of insurance that have been in effect for
13 more than 60 days cannot be canceled without notice and that
14 such notice is not effective unless it is based on one or more
15 of the specified reasons.

16 New Code section 515.129B provides that an insurer cannot
17 refuse to renew a personal lines policy or contract of
18 insurance unless at least 30 days before the end date of the
19 policy or contract the insurer delivers or mails written notice
20 to the first named insured at the insured's last known address,
21 of the insurer's intention not to renew accompanied by an
22 explanation of the specific reason for the nonrenewal.

23 New Code section 515.129C sets forth requirements for the
24 notice to an insured of the renewal or nonrenewal of personal
25 lines policies or contracts. Such notice must be mailed or
26 delivered to the first named insured at least 30 days prior to
27 the end of the policy or contract term and must also be mailed,
28 delivered, or electronically transmitted to the producer of
29 record of the policy or contract. An offer to renew shall
30 state the amount and due date of the premium. If the renewal
31 premium is not received by the due date or the policy or
32 contract expiration date, whichever is later, the policy or
33 contract lapses. If an insurer fails to comply with these
34 notice requirements, the policy or contract is extended on
35 the same terms and conditions for another policy or contract
1 term or until the effective date that similar insurance is

2 procured by the insured, whichever is earlier. Renewal of a
3 policy or contract under this Code section does not constitute
4 an estoppel or waiver with respect to grounds for cancellation
5 that existed prior to the effective date of the renewal.

6 MORTGAGE GUARANTY INSURANCE. Code section 515C.5 is
7 amended to allow the commissioner to suspend the requirements
8 concerning the amount of outstanding liability that a mortgage
9 guaranty insurer may have upon request of the insurer for
10 such time and under such conditions as the commissioner may
11 order. The commissioner may adopt rules as necessary relating
12 to the consideration of such requests for suspension of those
13 requirements.

14 CEMETERY AND FUNERAL MERCHANDISE, AND FUNERAL SERVICES.

15 Code section 523A.102 is amended to add definitions of
16 irrevocable and revocable purchase agreements to furnish
17 cemetery and funeral merchandise, and funeral services, or a
18 combination thereof.

19 Code section 523A.204(4) is amended to give the commissioner
20 the discretion to levy an administrative penalty in an amount
21 up to \$500 against a preneed seller who fails to file an annual
22 report when due. A corresponding change to Code section
23 523A.502A allows the commissioner such discretion when levying
24 a penalty against a sales agent who fails to file a report when
25 due.

26 Code section 523A.207 is amended to provide that if a
27 person selling or transferring a purchase agreement fails to
28 comply with the obligation to file an audit report with the
29 commissioner prior to the sale or transfer, that obligation is
30 shared by any preneed seller that assumes the obligations of
31 the purchase agreement. In addition, the seller or transferor
32 of the purchase agreement remains jointly and severally liable
33 to perform the terms of the purchase agreement until the audit
34 report is received by the commissioner.

35 Code section 523A.401(5) is amended to provide that when a
1 purchase agreement is funded by insurance policy proceeds, the

2 insurance policy shall not be owned by the seller and to delete
3 an exception to this requirement related to social security
4 requirements pertaining to burial trust funds. A corresponding
5 change is made to Code section 523A.402(5)(a) to provide
6 that when a purchase agreement is funded by annuity proceeds
7 the annuity shall not be owned by the seller and to delete a
8 similar exception in relation to social security requirements.
9 Code section 523A.401(9) is added to allow the commissioner to
10 adopt rules to require written trust agreements and establish
11 terms and conditions for trusts holding insurance policies that
12 fund purchase agreements. Code section 523A.402(9) is added to
13 allow the adoption of similar rules as to annuities that fund
14 purchase agreements.

15 Code section 523A.601 is amended to allow disclosures
16 concerning purchase agreements to include information that
17 tells purchasers or beneficiaries that the agreement may be
18 made irrevocable if the purchaser or beneficiary is receiving
19 or has applied to receive Medicaid or supplemental security
20 income benefits. This language corresponds to the changes made
21 in Code section 523A.602(3).

22 Code section 523A.602(4) is added to specify the
23 restrictions applicable to an irrevocable purchase agreement.
24 Such a purchase agreement must specify the merchandise and
25 services selected and the cost of each; a life insurance
26 policy or annuity funding the agreement must be held in trust
27 by the preneed seller; and any transfer of trust assets must
28 be to another licensed preneed seller in connection with an
29 assumption of the existing purchase agreement or a new purchase
30 agreement for the same selection of merchandise and services
31 and specifying the cost.

32 Code section 523A.807(3) relating to penalties for
33 violations of specific sections of Code chapter 523A is amended
34 to apply to violations of Code sections 523A.203 (qualification
35 and investment requirements of financial institution trustees);
1 523A.207 (performance of audits prior to sale of purchase

2 agreements); and 523A.504 (appointment of sales agents and
3 payment of fees). A violation of one of these sections may
4 result in civil penalties and orders prohibiting sales pursuant
5 to Code chapter 523A.

6 CEMETERY REGULATION. Code section 523I.213A(7) is added
7 to provide that notwithstanding Iowa's open records law,
8 the commissioner shall not make information obtained in the
9 course of an examination of a cemetery public except under
10 the specified circumstances. A corresponding change is
11 made by adding Code section 20.7(65), which states that such
12 information is not a public record.